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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

**PETTER INVESTMENTS, INC. d/b/a
RIVEER, a Michigan corporation,**

Plaintiff,

vs.

**HYDRO ENGINEERING, INC., a Utah
corporation, and CALIFORNIA
CLEANING SYSTEMS, a California
company,**

Defendants.

PATENT CASE SCHEDULING ORDER

(LPR 1.2)

Civil Case No. 2:14-CV-00045

Honorable District Judge Dee Benson

Pursuant to Fed. R. Civ. P. 16(b), the Magistrate Judge¹ received the Attorneys' Planning Report (Docket No. 68) filed by counsel. The Court schedules the following matters. The parties may not modify the times and deadlines set forth herein without the approval of the Court and on a showing of good cause pursuant to Fed. R. Civ. P. 6.

**ALL DEADLINES ARE SET FOR 11:59 P.M. ON THE DATE INDICATED
UNLESS EXPRESSLY STATED TO THE CONTRARY**

1. PRELIMINARY MATTERS/DISCLOSURES	DATE
a. Plaintiff's Accused Instrumentalities disclosure due [LPR 2.1]	3/3/14
b. Plaintiff's Rule 26(a)(1) initial disclosure due [LPR 2.2]	3/17/14
c. Defendant's Rule 26(a)(1) initial disclosure due [LPR 2.2]	3/24/14
d. Rule 26(f)(1) Conference held and discovery begins [LPR 1.2, 1.3]	4/1/14
e. Attorney Planning Meeting Form and Proposed Scheduling Order submitted [LPR 1.2]	4/7/14
f. Plaintiff serves Initial Infringement Contentions [LPR 2.3]	4/28/14
g. Defendant serves Initial Non-Infringement, Unenforceability, and Invalidity Contentions [LPR 2.4, 2.6]	5/12/14

¹ The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately assigned or referred to that Magistrate Judge.

h. Final Infringement Contentions [LPR 3.1]	9/22/14
i. Final Unenforceability and Invalidity Contentions [LPR 3.1]	10/6/14
j. Final Non-Infringement Contentions [LPR 3.2]	10/20/14

2. DISCOVERY LIMITATIONS	NUMBER
a. Maximum Number of Depositions by Plaintiff ²	10
b. Maximum Number of Depositions by Defendants ³	10
c. Maximum Number of Hours for Each Deposition (unless extended by agreement of parties)	7
d. Maximum Number of Interrogatories ⁴ By any Party to any Party	25
e. Maximum Number of Requests for Admissions by any Party to any Party	100
f. Maximum Number of Requests for Production by any Party to any Party	100
g. The Parties shall handle discovery of electronically stored information as follows	FRCP 34(b)(2)(E)
h. The parties shall handle a claim of privilege or protection as trial preparation material asserted after production as	FRCP 26(b)(5)(B)

² Excluding depositions of experts.

³ Excluding depositions of experts.

⁴ An interrogatory or multiple interrogatories seeking the basis of a party's affirmative defenses, infringement contentions, or invalidity contentions counts as one interrogatory regardless of the number of affirmative defenses alleged or the number of infringed or invalid claims alleged. A party may object to the time of discovery as set forth in LRP 1.7.

follows	
i. Deadline to serve written discovery before claim construction [R. 34]	10/31/14
j. Close of Phase I fact discovery before claim construction [LPR 1.3(a)]. Phase I fact discovery includes any discovery relevant to liability issues set forth in the pleadings, including affirmative defenses, and including specific financial information relevant to a particular liability issue, but excluding discovery of the parties' respective sales revenues, costs, profits, and other specific financial information. Such damages discovery is hereby bifurcated and may be conducted only following the Court's ruling on claim construction or any dispositive motions filed at the time of claim construction, whichever is later, if this case is not resolved by that point.	12/1/14
k. Disclosure of intent to rely on opinions of counsel and materials in support [LPR 1.3(c)]	PCC Day 7/Week 1
l. Deadline to file motion for additional discovery [LPR 1.3(b)]	PCC Day 14/Week 2

3. AMENDMENT OF PLEADINGS/ADDING PARTIES⁵	DATE
a. Last Day to File Motion to Amend Pleadings	6/16/14
b. Last Day to File Motion to Add Parties	6/16/14

4. CLAIM CONSTRUCTION PROCESS	DATE
a. Parties exchange proposed claim terms and claim constructions for construction [LPR 4.1(a)]	11/3/14

⁵ Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

b. Reach agreement to submit no more than 10 terms for construction [LPR 4.1(b)]	11/10/14
c. Parties file Cross-Motions for Claim Construction and Joint Appendix [LPR 4.2(a) & (b)]	12/8/14
d. Parties file Simultaneous Responsive Claim Construction Briefs [LPR 4.2(c)]	1/5/15
e. Joint Claim Construction Chart & Joint Status Report Due [LPR 4.2(f)]	1/12/15
f. Tutorial for Court [LPR 4.4]	1/19/15 @ 2:30 p.m.
g. Parties exchange exhibits [LPR 4.3]	1/26/15
h. Claim Construction Hearing ⁶ [LPR 4.3]	TBD

5. EXPERT DISCOVERY	DATE
a. Parties bearing burden of proof [LPR 5.1(b)]	PCC Day 28/Week 4
b. Counter reports [LPR 5.1(c)]	PCC Day 56/Week 8
c. Close of expert discovery [LPR 5.2]	PCC Day 91/Week 13

6. DISPOSITIVE MOTIONS	DATE
a. Deadline to file dispositive motions required to be filed with claim construction [LPR 6.2]	12/8/14
b. Deadline to file opposition to dispositive motions filed with claim construction [LPR 6.2]	1/5/15

⁶ Parties should contact the Court to set the date for the Claim Construction Hearing.

c. Deadline to file reply to dispositive motions filed with claim construction [LPR 6.2]	1/19/15
d. Deadline for filing dispositive or potentially dispositive motions [LPR 6.1]	PCC Day 119/Week 17
e. Deadline for filing partial or complete motions to exclude expert testimony	60 days before PTC

7. SETTLEMENT/ADR/OTHER PROCEEDINGS	DATE
a. Referral to Court-Annexed Mediation?	No
b. Referral to Court-Annexed Arbitration?	No
c. Last day to Seek Stay Pending Reexamination [LPR 3.5]	10/20/14
d. The parties will complete Private Mediation/Arbitration by?	N/A
e. Evaluate case for Settlement/ADR on?	3/1/15
f. Settlement probability?	Poor

Plaintiff is directed to file a new Scheduling Order within 14 days of a ruling on claim construction. The Court will set trial deadlines in that Order or through a Case Management Conference.

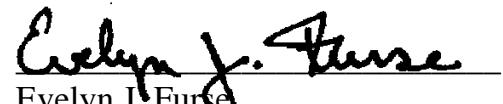
8. OTHER MATTERS

Counsel should contact chambers staff of the judge presiding in the case regarding *Daubert* and Claim Construction motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in *Limine* should be filed well in advance of the Final Pre Trial. Unless otherwise

directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under *Daubert* must be raised by written motion before the final pre-trial conference.

Signed: June 5, 2014

BY THE COURT:



Evelyn J. Furse
U.S. Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document—**[PROPOSED]**
PATENT CASE SCHEDULING ORDER AND ORDER VACATING HEARING—
with the Clerk of the Court using the CM/ECF system which sent notification of such
filing to the following:

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Dated: May 28, 2014

/s/ Stephen M. Lobbin